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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/678,733

10/02/2003

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DEFIB-65675

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EXAMINER

ALTER, ALYSSA MARGO

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

02/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/678,733 | <b>Applicant(s)</b><br>VAISNYS ET AL. |  |
|                              | <b>Examiner</b><br>Alyssa M. Alter   | <b>Art Unit</b><br>3762               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12, 15, 18, 22, 29 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 15, 18, 22, 29 and 36-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Correction to Summary of Telephonic Interview (Oct. 30, 2008)***

The Applicants' representatives and in-house counsel assert that during the interview, that "the Examiner Alter asked the Applicants' representative and their in-house counsel if they thought the suggested elements of a connector and connector port outside of the enclosed volume were patentable over the other prior art of record".

However, this is clearly not the case. The Examiner asking the Applicants' representatives and in-house counsel if the amendment would be allowable over the prior art is incorrect, especially since the Examiner establishes patentability, not the Applicants' representatives and in-house counsel.

With exception to the above comment, the Examiner agrees with the summary of the telephonic interview on October 30, 2008.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-9, 12, 15, 18, 22, 29 and 36-38 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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1. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 3 has been amended to include the limitation "only a portion of the electrode pad portion is positioned within the volume". The specification does not provide support for "only a portion" of the electrode pad portion being placed in the volume.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-2 and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Chesley et al. (US Patent Publication 20030023274 A1). Chesley et al. discloses a first panel and second panel that form the housing of the AED (automated external defibrillator). In addition, Chesley et al. discloses a slot or storage apartment 20, formed from a plate and the housing, to store the AED electrodes assembly. The electrode assembly includes an electrode pad portion containing electrode pads and an electrical

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cable extending from the pads to an electrical connector. The electrical connector, seen in figure 4, is located outside the electrical pad portion and connects with the defibrillator electronics, as seen in figure 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-9, 12, 15, 18, 22, 29 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesley et al. (US Patent Publication 20030023274 A1).

Chesley et al. discloses a first panel and second panel that form the housing of the AED (automated external defibrillator). In addition, Chesley et al. discloses a slot or storage compartment 20, formed from a plate and the housing, to store the AED electrodes assembly. The electrode assembly includes an electrode pad portion containing electrode pads and an electrical cable extending from the pads to an electrical connector.

As to claims 7-8 and 36-37, Chesley et al. teaches the device substantially as claimed but fails to teach electrodes pad assembly enclosed in a slot or volume while

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being connected to the electronics via a connector port located outside of the slot volume. It would be obvious to one having ordinary skill in the art at the time the invention was made to place the connector port outside the volume or space that houses the electrodes, in order to provide the predictable results of enabling the user to immediately ascertain from the surface of the device if the electrodes are present and engaged with the defibrillator system.

As to claim 3, connecting the electrodes pad assembly to the connector port outside of the slot or volume, would obviously render only a portion of the electrode pad portion positioned in the volume.

Additionally, as to claims 4-5, 9, 12, 15 and 38, Chesley et al. teaches the device substantially as claimed but fails to teach a holding device or groove exterior to the slot or volume. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a groove or holding device in the exterior of the AED to retain the cable in order to provide the predictable results of ensure the cable does not get twisted or dislodged.

As to claim 22, Chesley et al. teaches the device substantially as claimed but fails to teach a battery pack. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the AED of Chesley et al. to include a battery pack since such a modification would provide the predictable results of providing the defibrillation system with an additional, replaceable or rechargeable power source.

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2. Claims 1-9, 12, 15, 18, 29 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. (US 4,610,254). Morgan discloses an interactive portable defibrillator with a first panel and second panel that form the housing of the AED (automated external defibrillator) as seen in figure 1. In addition, Morgan discloses a slot, volume or storage compartment formed from a plate and the housing, as seen in figure 2, to store the AED electrodes assembly. The electrode assembly includes an electrode pad portion containing electrode pads and an electrical cable extending from the pads to an electrical connector also located in the volume. Morgan teaches the device substantially as claimed but fails to teach electrodes pad assembly enclosed in a slot or volume and connected to the electronics via a connector port located outside of the slot volume. It would be obvious to one having ordinary skill in the art at the time the invention was made to place the connector port outside the volume or space that houses the electrodes, in order to provide the predictable results of enabling the user to immediately ascertain from the surface of the device if the electrodes are present and engaged with the defibrillator system.

As to claim 3, connecting the electrodes pad assembly to the connector port outside of the slot or volume, would obviously render only a portion of the electrode pad portion positioned in the volume.

Additionally, as to claims 4-5, 9, 12, 15 and 38, Morgan teaches the device substantially as claimed but fails to teach a holding device or groove exterior to the slot or volume. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a groove or holding device in the exterior of the AED

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to retain the cable in order to provide the predictable results of ensure the cable does not get twisted or dislodged.

As to claim 22, Morgan teaches the device substantially as claimed but fails to teach a separate battery pack. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the battery, as disclosed by Morgan, to battery pack since such a modification would provide the predictable results of providing the defibrillation system with an additional, replaceable or rechargeable power source.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571)272-4939. The examiner can normally be reached on M-F 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George R Evanisko/  
Primary Examiner, Art Unit 3762

/Alyssa M Alter/  
Examiner  
Art Unit 3762